

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” Iowa Administrative Code.

The rules in Chapter 2 describe the process for licensure and renewal of certificates of licensure for licensees to be authorized to practice architecture in Iowa.

The proposed amendments are a result of 2017 Iowa Acts, Senate File 408, which requires licensure rather than registration of architects practicing in this state. This bill passed the Iowa Senate on March 28, 2017, 49-0 and passed the Iowa House on April 6, 2017, 96-0; it was signed by then Governor Branstad on May 11, 2017. The proposed amendments change terminology from registered/registration to licensed/licensure.

Consideration will be given to all written suggestions or comments received on or before July 25, 2017. Comments should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on July 25, 2017, at 9 a.m. in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

These proposed amendments were approved by the Board on May 19, 2017.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 544A as amended by 2017 Iowa Acts, Senate File 408.

The following amendments are proposed.

ITEM 1. Amend **193B—Chapter 2**, title, as follows:

REGISTRATION LICENSURE

ITEM 2. Amend the following definitions in rule **193B—2.1(544A,17A)**:

“*Applicant*” means an individual who has submitted an application for registration licensure to the board.

“*Architectural intern*” means an individual who holds a professional degree from a NAAB-accredited program, has completed or is currently enrolled in the NCARB Architectural Experience Program (AXP), formerly known as the Intern Development Program (IDP), and intends to actively pursue registration licensure by completing the Architect Registration Examination.

“*AXP applicant*” means an individual who has completed the AXP training requirements set forth in the NCARB Architectural Experience Program Guidelines, formerly known as the IDP Guidelines, and has submitted an application for registration licensure to the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of registration licensure is required.

“NCARB Certification Guidelines” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for ~~registration~~ licensure as an architect and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

ITEM 3. Amend rule 193B—2.2(544A,17A) as follows:

193B—2.2(544A,17A) Application by reciprocity. Applicants for ~~registration~~ licensure are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board’s Web site) and a completed NCARB certificate, received within three months of application, shall be filed in the board office before an application will be considered by the board.

2.2(1) ~~Registration~~ Licensure requirements. The board or the board administrator may waive examination requirements for applicants who, at the time of application, are ~~registered~~ licensed as architects in a different jurisdiction, where the applicant’s qualifications for ~~registration~~ licensure are substantially equivalent to those required of applicants for initial ~~registration~~ licensure in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial ~~registration~~ licensure in this state.

2.2(2) Applicants seeking architectural commission in Iowa. A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being ~~registered~~ licensed in this state if:

- a. No change.
 - b. The person holds a current and valid ~~registration~~ license issued by a ~~registration~~ licensing authority recognized by this state; and
 - c. The person notifies the board in writing on a form provided by the board that the person:
 - (1) Holds an NCARB certificate and a current and valid ~~registration~~ license issued by a ~~registration~~ licensing authority recognized by this state,
 - (2) Is not currently ~~registered~~ licensed in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
 - (3) Has no previous or pending disciplinary action by any ~~registration~~ licensing authority; and
 - d. No change.
 - e. The person provides the board with a sworn statement of intent to apply immediately to the board for ~~registration~~ licensure if selected as the architect for a project in this state.
- The person is prohibited from actually providing architectural services until the person has been issued a valid ~~registration~~ license in this state.

2.2(3) Board refusal to issue ~~registration~~ license. The board may refuse to issue a certificate of ~~registration~~ licensure to any person otherwise qualified upon any of the grounds for which a certificate of ~~registration~~ licensure may be revoked or suspended or may otherwise discipline a ~~registrant~~ licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a ~~registration~~ license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

ITEM 4. Amend rule 193B—2.3(544A,17A) as follows:

193B—2.3(544A,17A) Application for ~~registration~~ licensure by examination.

2.3(1) Eligibility.

- a. To be admitted to the examination, an applicant for ~~registration~~ licensure shall:
 - (1) and (2) No change.
- b. No change.

2.3(2) Documentation of AXP training units shall be submitted on AXP report forms published by NCARB and shall be verified by signatures of the ~~registered~~ licensed architects serving as the intern architect's supervisor in accordance with the requirements outlined in the NCARB Architectural Experience Program Guidelines. The completed AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

2.3(3) and 2.3(4) No change.

2.3(5) To be eligible for ~~registration~~ licensure, all applicants shall have passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB Architectural Experience Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office within three months of application. Upon receipt of the council record, the board shall provide the applicant with an application for ~~registration~~ licensure form. The board shall issue a ~~registration~~ license number to the applicant upon receipt of the completed application form and appropriate fee.

2.3(6) The board may refuse to issue a certificate of ~~registration~~ licensure to any person otherwise qualified upon any of the grounds for which a ~~registration~~ license may be revoked or suspended or may otherwise discipline a ~~registrant~~ licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, "disciplinary action" includes the voluntary surrender of a ~~registration~~ license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

ITEM 5. Amend rule 193B—2.4(544A,17A), introductory paragraph, as follows:

193B—2.4(544A,17A) Examination. Examinations for ~~registration~~ licensure as an architect shall be conducted by the board or its authorized representative.

ITEM 6. Amend rule 193B—2.5(17A,272C,544A) as follows:

193B—2.5(17A,272C,544A) Renewal of certificates of ~~registration~~ licensure.

2.5(1) Active status. Certificates of ~~registration~~ licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a ~~registrant~~ licensee is required to renew the certificate of ~~registration~~ licensure prior to the expiration date. A ~~registrant~~ licensee who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

a. A ~~registrant~~ licensee whose last name begins with the letter A through K shall renew in even-numbered years, and a ~~registrant~~ licensee whose last name begins with the letter L through Z shall renew in odd-numbered years.

b. It is the policy of the board to send to each ~~registrant~~ licensee a notice of the pending expiration date at the ~~registrant's~~ licensee's last-known address approximately one month prior to the date the certificate of ~~registration~~ licensure is scheduled to expire. The notice, when provided, may be by e-mail communication or in the quarterly newsletter. Failure to receive this notice does not relieve the ~~registrant~~ licensee of the responsibility to timely renew the certificate and pay the renewal fee. A ~~registrant~~ licensee should contact the board office if the ~~registrant~~ licensee does not receive a renewal notice prior to the date of expiration.

c. Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's administrator shall issue a new certificate of ~~registration~~ licensure reflecting the next expiration date, unless grounds exist for denial of the application. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

d. If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the ~~registrant~~ licensee failed to satisfy the

continuing education as required as a condition for ~~registration~~ licensure. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

e. When a ~~registrant~~ licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a ~~registrant~~ licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the ~~registrant~~ licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the ~~registrant~~ licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A ~~registrant~~ licensee is free to accept or reject the offer. If the offer of settlement is accepted, the ~~registrant~~ licensee will be issued a renewed certificate of ~~registration~~ licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

f. The board may notify a ~~registrant~~ licensee whose certificate of ~~registration~~ licensure has expired. The failure of the board to provide this courtesy notification or the failure of the ~~registrant~~ licensee to receive the notification shall not extend the date of expiration.

g. A ~~registrant~~ licensee who continues to practice architecture in Iowa after the ~~registration~~ license has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a ~~registrant's~~ licensee's application for reinstatement.

2.5(2) Inactive status. This subrule establishes a procedure under which a person issued a certificate of ~~registration~~ licensure as an architect may apply to the board to ~~register~~ be licensed as inactive. ~~Registration Licensure~~ under this subrule is available to a certificate holder residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate of ~~registration~~ licensure as an architect is required. A person eligible to ~~register~~ be licensed as inactive may, as an alternative to such ~~registration~~ licensure, allow the certificate of ~~registration~~ licensure to lapse. During any period of inactive status, a person shall not use the title “architect” or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a data base of persons ~~registered~~ licensed as inactive, including information which is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who ~~registers~~ is licensed as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

a. No change.

b. *Renewal.* A person ~~registered~~ licensed as inactive may renew the person's certificate of ~~registration~~ licensure on the biennial schedule described in 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.9(544A,17A). An inactive certificate of ~~registration~~ licensure shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

c. *Permitted practices.* A person may, while ~~registered~~ licensed as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of ~~registration~~ licensure has never been issued. Such services may be performed as long as the person does not in connection with such services use the title “architect” or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (with or without additional designations such as “inactive” or “retired”). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while ~~registered~~ licensed as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

2.5(3) Retired status. A person who held a ~~registration license~~ as an architect and who does not reasonably expect to return to the workforce in any capacity for which a certificate of ~~registration licensure~~ is required due to bona fide retirement or disability may apply to the board for retired status and, if granted, may use the title “architect retired” in the context of non-income-producing personal activities. If the board determines an applicant is eligible, the retired status would become effective on the first scheduled ~~registration license~~ renewal date. Applicants do not need to reinstate an expired ~~registration license~~ to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial ~~registration license~~ fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Persons ~~registered licensed~~ in retired status are exempt from the renewal requirement.

a. No change.

b. Permitted practices. Persons ~~registered licensed~~ in retired status may engage in the practices identified in paragraph 2.5(2) “c.” Such persons may also provide services as technical experts before a court, including prelitigation preparation, discovery, and testimony, on matters directly related to architectural services provided by such persons prior to ~~registering being licensed~~ with the board in retired status.

c. Exemption. A person whose ~~registration license~~ as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless, upon appropriate application, the board first reinstates the ~~registration license~~ to good standing.

ITEM 7. Amend rule 193B—2.6(544A,17A) as follows:

193B—2.6(544A,17A) Reinstatement of lapsed certificate of ~~registration licensure~~ to active status.

An individual may reinstate a lapsed certificate of ~~registration licensure~~ to active ~~registration licensure~~ as follows:

2.6(1) No change.

2.6(2) Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired ~~registration licensure~~ up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect ~~registration license~~ is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

2.6(3) Provide a written statement outlining the applicant’s professional activities performed in Iowa during the period of ~~nonregistration~~ in which the individual was unlicensed. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.6(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired ~~registration license~~ up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal. Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of ~~nonregistration~~ in which the individual was unlicensed. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

ITEM 8. Amend rule 193B—2.7(544A) as follows:

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive ~~registration~~ license to an active ~~registration~~ license as follows:

- a. Pay one-half of the current active ~~registration~~ license fee.
- b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of ~~registration~~ licensure to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of ~~registration~~ licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive ~~registration~~ licensure.

2.7(2) An individual may reinstate a retired ~~registration~~ license to an active ~~registration~~ license as follows:

a. Pay the current active ~~registration~~ license fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active ~~registration~~ license fee shall be paid.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of ~~registration~~ licensure to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of ~~registration~~ licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of retired ~~registration~~ licensure.

2.7(3) No change.

ITEM 9. Amend rule 193B—2.8(544A,17A) as follows:

193B—2.8(544A,17A) Finding of probable cause for unlicensed practice. The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed ~~registration~~ licensure.

ITEM 10. Amend rule 193B—2.9(544A,17A) as follows:

193B—2.9(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration <u>license</u> fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration <u>license</u> fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Retired status	None
Reinstatement of lapsed individual registration <u>license</u>	\$100 + renewal fee + \$25 per month or partial month of expired registration <u>license</u>
Reinstatement of inactive individual registration <u>license</u>	\$100
Reinstatement of retired individual registration <u>license</u>	\$200
Duplicate wall certificate fee	\$ 50
Late renewal fee	\$ 25
(for renewals postmarked on or after July 1 and before July 30)	